

ESTTA Tracking number: **ESTTA748493**

Filing date: **05/25/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Autodesk, Inc.
Granted to Date of previous extension	05/25/2016
Address	111 McInnis Parkway San Rafael, CA 94903 UNITED STATES
Attorney information	DAVID E. SIPIORA KILPATRICK TOWNSEND & STOCKTON LLP 1400 WEWATTA STREET SUITE 600 DENVER, CO 80202 UNITED STATES denverteas@kilpatricktownsend.com Phone:303.571.4000

Applicant Information

Application No	86579700	Publication date	01/26/2016
Opposition Filing Date	05/25/2016	Opposition Period Ends	05/25/2016
International Registration No.	NONE	International Registration Date	NONE
Applicant	Tinkerine Studios Ltd. 341 West 6th Avenue Vancouver, BC, V5Y1L1 CANADA		

Goods/Services Affected by Opposition

Class 007. First Use: 2012/11/00 First Use In Commerce: 2012/11/00 All goods and services in the class are opposed, namely: three-dimensional printers
Class 009. First Use: 2014/06/00 First Use In Commerce: 2014/06/00 All goods and services in the class are opposed, namely: providing downloadable operational software for three-dimensional printers
Class 041. First Use: 2015/03/27 First Use In Commerce: 2015/03/27 All goods and services in the class are opposed, namely: providing online educational content relating to three-dimensional printing

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
False suggestion of a connection with persons, living or dead, institutions, beliefs, or national symbols, or brings them into contempt, or disreputable	Trademark Act Section 2(a)

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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	4899471	Application Date	03/03/2015
Registration Date	02/09/2016	Foreign Priority Date	NONE
Word Mark	TINKERPLAY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2015/03/17 First Use In Commerce: 2015/03/17 downloadable computer software for designing and modeling of three-dimensional printable products in the nature of toys, models, figurines, dolls, jewelry, accessories, hobby models and consumer products for personal and commercial use; downloadable software applications for use with three-dimensional printers; data and image processing software for making three-dimensional models; computer software, namely, software tools for graphic computing of three-dimensional images, models and data for making three-dimensional models; computer application software for handheld computers, namely, software for creating and manipulating three-dimensional images, models and data for making three-dimensional models		

U.S. Application No.	86517296	Application Date	01/28/2015
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	TINKERCAD		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 0 First Use In Commerce: 0 Computer software, namely, downloadable 3D modeling software for 3D printing;		

	<p>computer software, namely, downloadable software for converting 3D models to physical objects; computer application software for mobile devices, namely, software for creating 3D models for use in 3D printing; downloadable software in the nature of a mobile application for creating 3D models used in 3D printing and for converting 3D models to physical objects</p> <p>Class 042. First use: First Use: 0 First Use In Commerce: 0</p> <p>Providing online non-downloadable 3D modeling software for 3D printing; providing online non-downloadable software for converting 3D models to physical objects; providing a web-based non-downloadable computer software application that allows users to import, model, share, store and export 3D modeling data at any stage of modeling or development process; software as a service (SAAS) services featuring software for creating 3D models and converting 3D models to physical objects; providing a web site featuring temporary use of non-downloadable software for designing 3D objects, models and construction projects, for image editing, simulation, visualization, and rendering of digital objects and images, and for data management, object design and rendering of computer graphics; providing a website featuring temporary use of non-downloadable software for uploading, sharing and exporting user-generated 3D models; providing an Internet website portal offering information in the field of computer aided design in three dimensions; technical support services, namely, troubleshooting of computer software problems in the fields of 3D modeling and 3D printing; technical support services, namely, providing customer support by troubleshooting computer software problems in the fields of 3D modeling and 3D printing; providing a website featuring educational information in the field of 3D modeling and 3D printing; providing temporary use of online non-downloadable cloud computer software for the storage of user-generated content</p>
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Attachments	<p>86552207#TMSN.png(bytes) 86517296#TMSN.png(bytes) TINKERINE - Notice of Opposition.pdf(114982 bytes) TINKERINE - Notice of Opposition Exhibits.pdf(117118 bytes)</p>
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/des/
Name	DAVID E. SIPIORA
Date	05/25/2016

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. 86/579,700
Published in the Official Gazette on January 26, 2016

AUTODESK, INC.,)	
)	
Opposer,)	Opposition No.
)	
v.)	
)	
TINKERINE STUDIOS LTD.,)	
)	
Applicant.)	
)	
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NOTICE OF OPPOSITION

Autodesk, Inc. (“Opposer”), a corporation duly organized and existing under the laws of the State of Delaware, having its principal place of business at 111 McInnis Parkway, San Rafael, California 94903, believes that it will be damaged by registration of the mark shown in Application Serial No. 86/579,700 in connection with services in International Classes 7, 9, and 41, and hereby opposes the same.

As grounds for opposition, Opposer alleges:

1. On or about March 27, 2015, Applicant filed U.S. Trademark Application Serial Number 86/579,700 for the trademark TINKERINE, for use in connection with “three-dimensional

printers” in International Class 7, “providing downloadable operational software for three-dimensional printers” in Class 9, and “providing online educational content relating to three-dimensional printing” in Class 41 (the “TINKERINE Application”).

2. On January 28, 2015, Opposer filed prior pending U.S. Trademark Application Serial Number 86/517,296 for “TINKERCAD” which recites goods in International Class 9 and services in International Classes 42, including 3D modeling software and 3D printing software. True and correct copies of the Application documents are attached hereto as Exhibit A.

3. On March 3, 2015, Opposer filed U.S. Trademark Application Serial Number 86/552,207 for “TINKERPLAY” which matured into U.S. Trademark Registration Number 4,899,471 on February 9, 2016, and recited goods in International Class 9 for computer software for designing and modeling of 3D printable products. True and correct copy of the Registration Certificate is attached hereto as Exhibit B.

4. Autodesk is a leader in design software. It is a multinational corporation focusing on 3D design software for use in a wide variety of industries, including the 3D maker industry, as well the architecture, engineering, construction, manufacturing, media, and entertainment industries.

5. In addition to Autodesk’s federal trademark rights and as alleged herein, Autodesk also owns common law rights in its TINKERCAD trademark for 3D printing related products and services, and its TINKERPLAY trademark for 3D printing computer software products.

6. As a result of substantial sales and extensive advertising and promotion, Opposer has established valuable goodwill in the TINKERCAD and TINKERPLAY trademarks, and the public has come to associate TINKERCAD and TINKERPLAY with Opposer and to know

TINKERCAD and TINKERPLAY as indicators of products and services that emanate from Opposer.

7. Opposer's application for TINKERCAD predates Applicant's application for TINKERINE by two months, and Opposer's application for TINKERPLAY predates Applicant's application for TINKERINE by almost one month.

8. Applicant's mark TINKERINE is similar in appearance, sound, connotation and commercial impression to Opposer's TINKERCAD and TINKERPLAY marks. Moreover, the services identified in Application Serial No. 86/579,700 TINKERINE are substantially similar to and/or overlap with Opposer's goods and services offered under the TINKERCAD and TINKERPLAY trademark.

9. As a result of the public association of the well-known TINKERCAD and TINKERPLAY trademarks with Opposer, a likelihood of confusion exists such that Applicant's services offered under the TINKERINE may be thought by consumers to emanate from Opposer, and may be confused with those of Opposer.

10. Registration of the mark in Application Serial No. 86/579,700, and use of Applicant's mark, is likely to cause confusion, or to cause mistake, or to deceive, particularly as to the source or origin of the services with which Applicant uses its mark, to induce purchasers to believe that the services of Applicant are those of Opposer, or are endorsed by, or are in some way affiliated or associated with Opposer.

11. If Application Serial No. 86/579,700 for TINKERINE is permitted to register, the registration by Applicant would presumptively entitle it to *prima facie* exclusive ownership and

rights to the mark TINKERINE and would, therefore, cause confusion among consumers of the relevant services as to the separate and distinct sources of Applicant's services and Opposer's services and the relationship of Opposer to Applicant, thereby damaging Opposer's goodwill in its TINKERCAD and TINKERPLAY trademarks, diminishing the value thereof and causing Opposer's business and reputation irreparable harm, all to the detriment of Opposer who has expended considerable sums and effort in promoting its TINKERCAD and TINKERPLAY trademarks.

Wherefore, Opposer prays that this Opposition be sustained and that registration of Application Serial No. 86/579,700 for TINKERINE in International Classes 7, 9, and 41 be denied. The filing fee of \$300.00 per class (\$900.00 total) should be charged to this firm's Deposit Account No. 20-1430 as required by 37 CFR §§ 2.101 and 2.6(a)(17). The Commissioner is also authorized to charge any additional fees that may be required, or credit any overpayment, to that Deposit Account.

Respectfully submitted,

AUTODESK, INC.

Date: May 25, 2016

/David E. Sipiora/
David E. Sipiora
Daniel I. Ackerman
KILPATRICK TOWNSEND & STOCKTON LLP
1400 Wewatta Street, Suite 600
Denver, CO 80202
(303) 571-4000

Attorneys for Opposer Autodesk, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of May 2016, a true and correct copy of the foregoing NOTICE OF OPPOSITION was served by placing the same in the United States mail, postage prepaid and addressed to the following:

Todd A. Rattray
Oyen Wiggs Green & Mutala LLP
601 West Cordova Street
Suite 480 – The Station
Vancouver, BC CANADA V6B1G1

/Daniel Ackerman/
Daniel I. Ackerman

EXHIBIT A

Trademark/Service Mark Application, Principal Register

Serial Number: 86517296
 Filing Date: 01/28/2015

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	86517296
MARK INFORMATION	
*MARK	TINKERCAD
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	TINKERCAD
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	Autodesk, Inc.
*STREET	111 McInnis Parkway
*CITY	San Rafael
*STATE (Required for U.S. applicants)	California
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants)	94903
LEGAL ENTITY INFORMATION	
TYPE	corporation
STATE/COUNTRY OF INCORPORATION	Delaware
GOODS AND/OR SERVICES AND BASIS INFORMATION	
INTERNATIONAL CLASS	009
*IDENTIFICATION	Computer software, namely, downloadable 3D modeling software for 3D printing; computer software, namely, downloadable software for converting 3D models to physical objects; computer application software for mobile devices, namely, software for creating 3D models for use in 3D printing; downloadable software in the nature of a mobile application for creating 3D models used in 3D printing and for converting 3D models to physical objects.
FILING BASIS	SECTION 1(b)
INTERNATIONAL CLASS	042
	Computer software, namely, non-downloadable 3D modeling software for 3D printing; computer software, namely, non-

*IDENTIFICATION	downloadable software for converting 3D models to physical objects; web-based computer software application that allows users to import, model, share, store and export 3D modeling data at any stage of modeling or development process; software as a service (SAAS) services featuring software for creating 3D models and converting 3D models to physical objects; providing a web site featuring temporary use of non-downloadable software for designing 3D objects, models and construction projects; for image editing, simulation, visualization, and rendering of digital objects and images, and for data management, object design and rendering of computer graphics; providing a website featuring temporary use of non-downloadable software for uploading, sharing and exporting user-generated 3D models; providing an Internet website portal offering information in the field of computer aided design in three dimensions; providing a website featuring blogs in the fields of 3D modeling and 3D printing; technical support services, namely, troubleshooting and customer support services for computer software problems in the fields of 3D modeling and 3D printing; providing a website featuring educational information in the field of 3D modeling and 3D printing; providing temporary use of on-line non-downloadable cloud computer software for the storage of user-generated content.
FILING BASIS	SECTION 1(b)
ADDITIONAL STATEMENTS SECTION	
PRIOR REGISTRATION(S)	The applicant claims ownership of U.S. Registration Number(s) 4208936, 2008410, and 1316773.
ATTORNEY INFORMATION	
NAME	David E. Sipiora
ATTORNEY DOCKET NUMBER	86831-929265
FIRM NAME	Kilpatrick Townsend & Stockton LLP
STREET	1400 Wewatta Street, Suite 600
CITY	Denver
STATE	Colorado
COUNTRY	United States
ZIP/POSTAL CODE	80202
PHONE	303.571.4000
FAX	303.571.4321
EMAIL ADDRESS	denverteas@kilpatricktownsend.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
OTHER APPOINTED ATTORNEY	Daniel I. Ackerman
CORRESPONDENCE INFORMATION	
NAME	David E. Sipiora
FIRM NAME	Kilpatrick Townsend & Stockton LLP
STREET	1400 Wewatta Street, Suite 600
CITY	Denver

STATE	Colorado
COUNTRY	United States
ZIP/POSTAL CODE	80202
PHONE	303.571.4000
FAX	303.571.4321
*EMAIL ADDRESS	denverteas@kilpatricktownsend.com; dackerman@kilpatricktownsend.com
*AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
APPLICATION FILING OPTION	TEAS RF
NUMBER OF CLASSES	2
FEE PER CLASS	275
*TOTAL FEE DUE	550
*TOTAL FEE PAID	550
SIGNATURE INFORMATION	
SIGNATURE	/jdj/
SIGNATORY'S NAME	Jennifer Daehler
SIGNATORY'S POSITION	Intellectual Property Counsel
SIGNATORY'S PHONE NUMBER	n/a
DATE SIGNED	01/28/2015

Trademark/Service Mark Application, Principal Register

Serial Number: 86517296

Filing Date: 01/28/2015

To the Commissioner for Trademarks:

MARK: TINKERCAD (Standard Characters, see [mark](#))

The literal element of the mark consists of TINKERCAD.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Autodesk, Inc., a corporation of Delaware, having an address of
111 McInnis Parkway
San Rafael, California 94903
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

International Class 009: Computer software, namely, downloadable 3D modeling software for 3D printing; computer software, namely, downloadable software for converting 3D models to physical objects; computer application software for mobile devices, namely, software for creating 3D models for use in 3D printing; downloadable software in the nature of a mobile application for creating 3D models used in 3D printing and for converting 3D models to physical objects.

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

International Class 042: Computer software, namely, non-downloadable 3D modeling software for 3D printing; computer software, namely, non-downloadable software for converting 3D models to physical objects; web-based computer software application that allows users to import, model, share, store and export 3D modeling data at any stage of modeling or development process; software as a service (SAAS) services featuring software for creating 3D models and converting 3D models to physical objects; providing a web site featuring temporary use of non-downloadable software for designing 3D objects, models and construction projects; for image editing, simulation, visualization, and rendering of digital objects and images, and for data management, object design and rendering of computer graphics; providing a website featuring temporary use of non-downloadable software for uploading, sharing and exporting user-generated 3D models; providing an Internet website portal offering information in the field of computer aided design in three dimensions; providing a website featuring blogs in the fields of 3D modeling and 3D printing; technical support services, namely, troubleshooting and customer support services for computer software problems in the fields of 3D modeling and 3D printing; providing a website featuring educational information in the field of 3D modeling and 3D printing; providing temporary use of on-line non-downloadable cloud computer software for the storage of user-generated content.

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

Claim of Active Prior Registration(s)

The applicant claims ownership of U.S. Registration Number(s) 4208936, 2008410, and 1316773.

The applicant's current Attorney Information:

David E. Sipiora and Daniel I. Ackerman of Kilpatrick Townsend & Stockton LLP
1400 Wewatta Street, Suite 600
Denver, Colorado 80202
United States

The attorney docket/reference number is 86831-929265.

The applicant's current Correspondence Information:

David E. Sipiora
Kilpatrick Townsend & Stockton LLP
1400 Wewatta Street, Suite 600

Denver, Colorado 80202

303.571.4000(phone)

303.571.4321(fax)

denverteas@kilpatricktownsend.com;dackerman@kilpatricktownsend.com (authorized)

E-mail Authorization: I authorize the USPTO to send e-mail correspondence concerning the application to the applicant or applicant's attorney at the e-mail address provided above. I understand that a valid e-mail address must be maintained and that the applicant or the applicant's attorney must file the relevant subsequent application-related submissions via the Trademark Electronic Application System (TEAS). Failure to do so will result in an additional processing fee of \$50 per international class of goods/services.

A fee payment in the amount of \$550 has been submitted with the application, representing payment for 2 class(es).

Declaration

The signatory believes that: if the applicant is filing the application under 15 U.S.C. Section 1051(a), the applicant is the owner of the trademark/service mark sought to be registered; the applicant or the applicant's related company or licensee is using the mark in commerce on or in connection with the goods/services in the application, and such use by the applicant's related company or licensee inures to the benefit of the applicant; the specimen(s) shows the mark as used on or in connection with the goods/services in the application; and/or if the applicant filed an application under 15 U.S.C. Section 1051(b), Section 1126(d), and/or Section 1126(e), the applicant is entitled to use the mark in commerce; the applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the goods/services in the application. The signatory believes that to the best of the signatory's knowledge and belief, no other person has the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion or mistake, or to deceive. The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of the application or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Declaration Signature

Signature: /jdj/ Date: 01/28/2015

Signatory's Name: Jennifer Daehler

Signatory's Position: Intellectual Property Counsel

RAM Sale Number: 86517296

RAM Accounting Date: 01/29/2015

Serial Number: 86517296

Internet Transmission Date: Wed Jan 28 17:47:46 EST 2015

TEAS Stamp: USPTO/BAS-XX.XXX.XXX.XXX-201501281747463

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0-CC-4281-20150128161116998699

TINKERCAD

EXHIBIT B

United States of America

United States Patent and Trademark Office

TINKERPLAY

Reg. No. 4,899,471
Registered Feb. 9, 2016

AUTODESK, INC. (DELAWARE CORPORATION)
111 MCINNIS PARKWAY
SAN RAFAEL, CA 94903

Int. Cl.: 9

TRADEMARK

PRINCIPAL REGISTER

FOR: DOWNLOADABLE COMPUTER SOFTWARE FOR DESIGNING AND MODELING OF THREE-DIMENSIONAL PRINTABLE PRODUCTS IN THE NATURE OF TOYS, MODELS, FIGURINES, DOLLS, JEWELRY, ACCESSORIES, HOBBY MODELS AND CONSUMER PRODUCTS FOR PERSONAL AND COMMERCIAL USE; DOWNLOADABLE SOFTWARE APPLICATIONS FOR USE WITH THREE-DIMENSIONAL PRINTERS; DATA AND IMAGE PROCESSING SOFTWARE FOR MAKING THREE-DIMENSIONAL MODELS; COMPUTER SOFTWARE, NAMELY, SOFTWARE TOOLS FOR GRAPHIC COMPUTING OF THREE-DIMENSIONAL IMAGES, MODELS AND DATA FOR MAKING THREE-DIMENSIONAL MODELS; COMPUTER APPLICATION SOFTWARE FOR HANDHELD COMPUTERS, NAMELY, SOFTWARE FOR CREATING AND MANIPULATING THREE-DIMENSIONAL IMAGES, MODELS AND DATA FOR MAKING THREE-DIMENSIONAL MODELS, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 3-17-2015; IN COMMERCE 3-17-2015.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SN 86-552,207, FILED 3-3-2015.

KAREN K. BUSH, EXAMINING ATTORNEY



Michelle K. Lee

Director of the United States
Patent and Trademark Office